

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JAMES JACKSON,

Case No. 15-CV-3151 (PJS/TNL)

Plaintiff,

v.

ORDER

LT. AMIE SANTINI, Federal Bureau of Prisons, FCI Sandstone, Sandstone, MN, in her individual capacity; LT. DANIEL GRAVDAHL, S.I.S., Federal Bureau of Prisons, FCI Sandstone, Sandstone, MN, in his individual capacity; JAKE BUSH, Paralegal, Federal Bureau of Prisons, FCI Sandstone, Sandstone, MN, in his individual capacity; and DENESE WILSON, Warden, Federal Bureau of Prisons, FCI Sandstone, Sandstone, MN, in her individual capacity; jointly and severally,

Defendants.

James Jackson, pro se.

This matter is before the Court on plaintiff James Jackson's motion for leave to appeal in forma pauperis ("IFP"). The Court will grant Jackson's motion and order him to pay an initial filing fee of \$77.40.

Because Jackson is a "prisoner," *see* 28 U.S.C. § 1915(h), the filing fee for his appeal cannot be waived altogether. 28 U.S.C. § 1915(b); *Henderson v. Norris*, 129 F.3d 481, 483-84 (8th Cir. 1997) (per curiam). Instead, Jackson must pay the full filing fee,

although he is allowed to pay that fee in installments. *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997). Specifically, Jackson is required to pay an “initial partial filing fee” upon the commencement of his appeal, and he is required to pay the remainder of the fee through periodic deductions from his prison trust account. 28 U.S.C. § 1915(b).

Under § 1915(b), the initial partial filing fee is 20 percent of the greater of (1) the average monthly deposits or (2) the average monthly balance in the prisoner’s trust account over the preceding six months. According to Jackson’s IFP application, the average monthly balance in his trust account over the last six months is \$387.00. *See* ECF No. 68-1 at 5. This number is greater than either the \$346.69 in average monthly deposits over the last six months that is indicated in the trust-account statement, *see id.*, or the \$248.15 in average monthly deposits over the last 12 months that Jackson claims in the affidavit accompanying his motion for permission to appeal IFP, *see* ECF No. 68 at 2. Therefore, Jackson must pay an initial partial filing fee of \$77.40—or 20 percent of \$387.00—and he must pay the remainder of the fee over time in accordance with § 1915(b)(2).

The Court remains satisfied that Jackson’s lawsuit was properly dismissed and that he has no meritorious grounds for an appeal. But the Court will not deem Jackson’s appeal to be “frivolous,” and therefore the Court finds that Jackson’s appeal is taken “in good faith” for purposes of § 1915(a)(3). *See Coppedge v. United States*, 369 U.S.

438, 445 (1962) (“ We consider a defendant's good faith . . . demonstrated when he seeks appellate review of any issue not frivolous.”).

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY ORDERED that:

1. Plaintiff’s motion for leave to appeal *in forma pauperis* [ECF No. 68] is
GRANTED.
2. Plaintiff is ordered to pay an initial partial filing fee of at least \$77.40.
3. The remainder of the filing fee must be paid over time in accordance with
28 U.S.C. § 1915(b)(2).
4. The Clerk of Court is directed to mail a copy of this order to plaintiff and
to prison officials at the institution at which plaintiff is currently confined.

Dated: May 24, 2017

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge